

Continuances.—The Act of 1785, ch. 80, sec. 11, Code, Art. 7, sec. 3,³⁴ provides for the continuance of causes till the award is made, and also that they shall not abate by the death of either party, &c. In *Shriver v. the State* *supra* it was held that the omission to enter the continuances was a mere clerical error, which might be corrected in the appellate Court. In *Turner v. Maddox*, 3 Gill, 190, an action on a contract of indemnity against judgment in a pending suit, the party to be indemnified died, and it was held that the guarantor could not impeach the validity of a judgment rendered upon the award against her by shewing her death before it was entered, for under the Act the Courts have power to enter the judgment notwithstanding the death of either party. A cause under a rule of reference is continued until the award is made, and the death of both parties does not abate the action; but if years elapse, and the arbitrator removes from the State, the cause will be reinstated on motion. The proper course in such a case is, first, a motion to reinstate the action in the names of the original parties, and when that is ordered, their death is next suggested and their representatives summoned, and upon their appearance the cause goes regularly on.

vidual character and only bind him personally. *Browne v. Preston*, 38 Md. 373.

In *Woods v. Matchett*, 47 Md. 390, there was an award and the exhibits accompanying it showed that the arbitrator had allowed usurious interest on the claim in controversy. Exceptions were filed thereto and overruled on the ground that such defense, not having been made before the arbitrator, could not be relied on by way of exception. This ruling was reversed on appeal, no question of the right of appeal being raised. In *Strite v. Reiff*, 55 Md. 92, the executor of an estate had a fund in his possession which was claimed by three persons. The claimants submitted the matter to the arbitrament and award of "the three judges of the Orphans Court" (of Washington County) "whose judgment and determination in the premises shall be binding, final and conclusive upon all the parties, unless appealed from within thirty days thereafter by any party aggrieved, and such appeal shall be to the Court of Appeals of Maryland." The judges made an award in the form of a final order or judgment of that court, from which an appeal was taken directly, no exceptions being filed. It was held that the Orphans Court as such had no jurisdiction in the premises; that if the reference was to the judges under sec. 257 *supra* and was warranted by that section, the decision would be final and no appeal would lie; that if the reference was to the judges as individuals, it was an ordinary case of arbitration and no appeal would lie; that the reservation of the right of appeal could not confer jurisdiction on the Court of Appeals to hear it; and that the fact that the judges clothed their award in the form of a judicial order did not give it the effect of an order or judgment which would be within their jurisdiction. The court distinguishes *Woods v. Matchett*, *supra*. See also *State v. McCarty*, 64 Md. 253, 261.

³⁴ Code 1911, Art. 75, sec. 48.